State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

756A0702

HOUSE BILL NO. 1255

Introduced by: Representatives Hunt and Monroe and Senators Lange and Staggers

FOR AN ACT ENTITLED, An Act to permit access to alternative medical treatments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Terms used in this Act are defined as follows:

(1) "Allopathic medicine," treatment with remedies that produce effects differing from those of the disease treated;

(2) "Danger," a negative reaction that causes serious harm, occurred as a result of a method of medical treatment, would not have occurred except for the medical treatment, and is more serious than reactions experienced with routinely used medical treatments for the same medical condition or conditions;

(3) "Health care practitioner," a physician or another person who is legally authorized to provide the services of a health professional in this state; and a person who practices nonallopathic medicine which is not prohibited by law;

(4) "Legal representative," a parent or a legal guardian;

(5) "Medical treatment," any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury, unhealthy or abnormal physical or mental

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condition; or any advice, attendance, or assistance in the process of natural childbirth or other normal bodily processes.

Section 2. An individual may be treated by a health care practitioner with any medical treatment that the individual desires or the legal representative of the individual authorizes if the practitioner has personally examined the individual and agrees to treat the individual and if the medical treatment is not prohibited by state law.

Section 3. A health care practitioner may provide any medical treatment to an individual if there is no reasonable basis to conclude that the medical treatment itself, if used as directed, poses an unreasonable and significant risk of danger to the individual and if the individual has been informed in writing of the nature of the medical treatment and signs the informed consent statement. The informed consent shall include the following:

(1) The contents and methods of the treatment;

(2) The anticipated benefits of the treatment;

(3) Any reasonably foreseeable side effects that may result from the treatment;

(4) The results of past applications of the treatment by the health care practitioner and others;

(5) Any other information necessary to fully meet the requirements for informed consent of human subjects prescribed by the United States Food and Drug Administration in 21 C.F.R. Part 50, Subpart B (April 1, 1996); and

(6) The fact that the individual desires the treatment.

Section 4. In the provision of medical treatment in accordance with this Act, a health care practitioner may not violate any provision of the Controlled Substances Act, 21 U.S.C. § 801 et seq. as in effect on January 1, 1997.